



# House of Representatives

General Assembly

**File No. 709**

*January Session, 2001*

Substitute House Bill No. 6588

*House of Representatives, May 9, 2001*

The Committee on Appropriations reported through REP. DYSON of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING JUDGES AND MAGISTRATES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 46b-231 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (f) The Family Support Magistrate Division shall include [nine]  
4 thirteen family support magistrates who shall be appointed by the  
5 Governor to serve in that capacity for a term of three years. A family  
6 support magistrate may be reappointed upon completion of [his] such  
7 family support magistrate's term of office by the Governor. To be  
8 eligible for appointment, a family support magistrate must have  
9 engaged in the practice of law for five years prior to [his] appointment  
10 and shall be experienced in the field of family law. [He] A family  
11 support magistrate shall devote full time to [his] the duties [as] of a  
12 family support magistrate and shall not engage in the private practice  
13 of law. A family support magistrate may be removed from office by  
14 the Governor for cause.

15       Sec. 2. Section 51-47b of the general statutes is repealed and the  
16 following is substituted in lieu thereof:

17       (a) Each senior judge who has been designated and assigned by the  
18 Chief Justice or the Chief Court Administrator to perform judicial  
19 duties as a senior judge pursuant to the provisions of this section,  
20 sections 51-50, 51-50c to 51-50e, inclusive, 51-50i to 51-50k, inclusive,  
21 51-165, 51-198, 52-434a and 52-434b shall receive during the period [he]  
22 such senior judge shall perform the judicial duties, in addition to [his]  
23 such senior judge's retirement salary, the compensation provided by  
24 law for a state referee for each day [he] such senior judge so performs  
25 either judicial duties or duties as a referee or both.

26       (b) In no event shall the total of a retired judge's compensation,  
27 defined as retirement salary plus fees payable by the state for services  
28 as a senior judge or state referee for services rendered in any fiscal  
29 year, exceed the amount [equal to the highest salary on which his  
30 retirement salary is based during the fiscal year] of the annual salary  
31 payable pursuant to subsection (a) of section 51-47, as such salary may  
32 change from time to time.

33       Sec. 3. Section 51-197c of the general statutes is repealed and the  
34 following is substituted in lieu thereof:

35       (a) The Appellate Court shall consist of nine judges, except as  
36 provided in subsection (b) of this section, who shall also be judges of  
37 the Superior Court, and who shall be appointed by the General  
38 Assembly, upon nomination of the Governor for a term of eight years.  
39 The judges shall sit in panels of three, or en banc, pursuant to rules  
40 adopted by the Appellate Court. The Chief Justice shall designate one  
41 of these judges as chief judge of the Appellate Court.

42       (b) If a judge of the Appellate Court (1) is appointed the Chief Court  
43 Administrator, or (2) on the effective date of this act, is serving as the  
44 Chief Court Administrator, the Appellate Court shall consist of ten

45 judges for the remainder of said judge's current term on the Appellate  
46 Court, or until his or her retirement from full-time active service,  
47 whichever occurs first. The tenth judge shall also be a judge of the  
48 Superior Court and shall be appointed by the General Assembly upon  
49 nomination of the Governor for a term of eight years.

50 [(b)] (c) With the approval of the Chief Justice, the Chief Judge shall  
51 (1) schedule such sessions as may be necessary, at such locations as the  
52 facilitation of court business requires, (2) designate as many panels as  
53 may be necessary, each consisting of three judges assigned by [him]  
54 the Chief Judge, and (3) designate a presiding judge for each panel on  
55 which [he] the Chief Judge does not sit.

56 [(c)] (d) Every judge of the Superior Court shall, by virtue of [his]  
57 appointment to the Superior Court, be qualified to serve as a judge on  
58 the Appellate Court.

59 [(d)] (e) Each of the parties in any case shall have a right to be heard  
60 by a full panel. The Chief Judge, with the approval of the Chief Justice,  
61 may summon one or more of the judges of the Superior Court to  
62 constitute a full panel.

63 [(e)] (f) The judges of the Appellate Court shall be released from  
64 sitting on the Superior Court, except that the Chief Justice may assign  
65 any such judge to sit on the Superior Court whenever in [his] the Chief  
66 Justice's judgment the public business may require it.

67 (g) If the Chief Court Administrator is a judge of the Appellate  
68 Court, said Chief Court Administrator shall be released from sitting on  
69 the Appellate Court, except that the Chief Justice may assign the Chief  
70 Court Administrator to sit on the Appellate Court whenever, in the  
71 Chief Justice's judgment, the public business may require it.

72 [(f)] (h) Each Chief Judge or judge of the Appellate Court who elects  
73 to retain [his] such judge's office but to retire from full-time active

74 service shall continue to be a member of the Appellate Court during  
75 the remainder of [his] such judge's term of office and during the term  
76 of any reappointment under section 51-50i, until [he] such judge  
77 attains the age of seventy years. [He] Such judge shall be entitled to  
78 participate in the meetings of the judges of the Appellate Court and to  
79 vote as a member thereof.

80 [(g)] (i) In each appeal to the Appellate Court, the party appealing  
81 shall pay a record fee as prescribed in section 52-259, at such time as is  
82 fixed by rule of court, which amount shall be taxed in favor of the  
83 appellant if judgment is finally rendered in [his] such appellant's favor.

84 Sec. 4. Section 51-198 of the general statutes is repealed and the  
85 following is substituted in lieu thereof:

86 (a) The Supreme Court shall consist of one Chief Justice and six  
87 associate judges, except as provided in subsection (b) of this section,  
88 who shall, at the time of their appointment, also be appointed judges  
89 of the Superior Court.

90 (b) If an associate judge of the Supreme Court is appointed the Chief  
91 Court Administrator, the Supreme Court shall consist of one Chief  
92 Justice and seven associate judges for the remainder of said judge's  
93 current term as a judge of the Supreme Court, or until his or her  
94 retirement from full-time active service, whichever occurs first. The  
95 seventh associate judge shall be appointed by the General Assembly,  
96 upon nomination of the Governor for a term of eight years.

97 [(b)] (c) In addition thereto, each Chief Justice or associate judge of  
98 the Supreme Court who elects to retain [his] office but to retire from  
99 full-time active service shall continue to be a member of the Supreme  
100 Court during the remainder of his or her term of office and during the  
101 term of any reappointment under section 51-50i, until he or she attains  
102 the age of seventy years. He or she shall be entitled to participate in the  
103 meetings of the judges of the Supreme Court and to vote as a member

104 thereof.

105        [(c)] (d) A judge of the Supreme Court who has attained the age of  
106 seventy years may continue to deliberate and participate in all matters  
107 concerning the disposition of any case which the judge heard prior to  
108 attaining said age, until such time as the decision in any such case is  
109 officially released. The judge may also participate in the deliberation of  
110 a motion for reconsideration in such case if such motion is filed within  
111 ten days of the official release of such decision.

112        Sec. 5. This act shall take effect from its passage, except that sections  
113 1 and 2 shall take effect October 1, 2001.

***Statement of Legislative Commissioners:***

Changes were made for gender neutrality, in subsection (b) of section 3, "at the time of" was changed to "on", "section" was changed to "act" for accuracy and in subsection (g) of section 3, "any such judge" was changed to "the Chief Court Administrator" for accuracy.

***JUD***        *Joint Favorable C/R*

***APP***

***APP***        *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Cost

**Affected Agencies:** Judicial Department

**Municipal Impact:** None

**Explanation****State Impact:**

The bill results in a total unbudgeted cost to the state of less than \$300,000 in FY 02 and less than \$500,000 in FY 03.

**Section 1** results in a net cost of \$250,959 in FY 02 and \$442,729 in FY 03 to the Judicial Department by increasing the number of Family Support Magistrates (FSM) by four on 10/1/01. SHB 6668 (the FY 01-FY 03 state budget as favorably reported by the Appropriations Committee), includes funding for two family support magistrates on 7/1/01. See Table below for detail:

	FY 02	FY 03
Cost of 4 FSMs on 10/1/01	\$ 727,051	\$ 889,821
Less Funds in Budget for 2 FSMs on 7/1/01 <sup>1</sup>	476,092	447,092

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<sup>1</sup> It should be noted that these costs, like other child-support related costs, are 66% reimbursable from the federal government. The gross amount of these costs is budgeted up front with the federal reimbursement accounted for separately as revenue.

Net Cost of Section 1	250,959	442,729
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**Section 2** changes the amount of maximum allowable compensation for senior judges and state referees that commenced service after 1981 to the amount established for those that commenced service before 1981. The total potential cost of this section is about \$150,000 but would likely be less than \$50,000 since more than 2/3rds of this group of retired judges are not close to the current cap. Retired judges that commenced service prior to 1981 are allowed to make about \$5,200 more on average than those that retired after 1981 based on the current allowable maximums of both groups of judges. But most retired judges do not work up to the level of compensation that is allowed. Only about nine judges are close (five days or less) to the maximum allowable number of days. See Table below for detail.

Total Current Maximum Allowable Compensation <sup>2</sup>	\$ 1,050,787
Total Current Per Diem Payments <sup>3</sup>	727,661
Amount Below Current Maximum <sup>4</sup>	323,125
Potential Cost of Compensation Commission Proposal <sup>5</sup>	151,060
<b>Probable Cost of Commission Proposal<sup>6</sup></b>	<b>less than 50,000</b>

**Sections 3 and 4** allow a higher court judgeship vacated due to appointment of that judge as the chief court administrator to be filled with other judges. It does not alter the number of judgeships and does not result in a fiscal impact. The current salary of the chief court

<sup>2</sup> Based on FY 01 data for retired judges that commenced service prior to 1981

<sup>3</sup> Based on FY 00 data for retired judges that commenced service prior to 1981

<sup>4</sup> Represents additional cost if all judges worked the maximum possible number of their current allowable days

<sup>5</sup> Represents additional cost beyond #3 if all judges worked to the new maximum allowable levels

<sup>6</sup> Represents cost of judges near the maximum that would seek to work additional days under the bill

administrator is \$134,738, the current salary of an Appellate Court judge is \$120,988, and the current salary of a Supreme Court judge is \$129,404.



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**OLR Bill Analysis****sHB 6588*****AN ACT CONCERNING JUDGES AND MAGISTRATES.*****SUMMARY:**

This bill authorizes the appointment of four additional family support magistrates, bringing the total number of 13.

It authorizes senior judges, through a combination of retirement and per diem pay, to earn up to the annual salary payable to judges instead of up to the highest salary on which their retirement benefit is based.

The bill temporarily expands the Supreme Court from six to seven associate judges if an associate judge is appointed chief court administrator. The expansion lasts for the remainder of that judge's term as a Supreme Court judge or until he retires from the full-time service. The seventh Supreme Court judge must be appointed by the General Assembly, upon the governor's nomination, for an eight-year term.

The bill temporarily expands the Appellate Court from nine to 10 judges if an Appellate Court judge is appointed chief court administrator or is serving in that capacity when the governor signs the bill. The 10th Appellate Court judge must be a Superior Court judge appointed by the General Assembly, upon the governor's nomination, for an eight-year term.

The Appellate Court would consist of 10 judges for the remainder of the term of the Appellate Court judge serving as chief court administrator or until he retires.

The bill requires that an Appellate Court judge acting as the chief court administrator be relieved from hearing Appellate Court cases. But it authorizes the Chief Justice to assign him to hear cases whenever he believes public business may require it.

EFFECTIVE DATE: Upon passage, except for the provisions relating to family support magistrates and senior judges, which become effective October 1, 2001.

## **BACKGROUND**

### ***Judicial Salaries***

Currently, Superior Court judges earn \$116,000 a year, Appellate Court judges earn \$129,404, and Supreme Court judges earn \$129,088. These are scheduled to increase on April 1, 2002, to \$125,000, \$129,988, and \$138,404 respectively.

### ***Per-Diem Pay For Senior Judges***

Senior judges currently receive \$200 a day plus expenses for each day they work as senior judges.

By law, any judge who retires from full-time active service and who has not attained the age of 70 is a senior judge of the court he retired from for the rest of his term and is eligible for reappointment to succeeding terms as a senior judge upon nomination by the governor and appointment by the legislature.

## **COMMITTEE ACTION**

### Judiciary Committee

Joint Favorable Change of Reference

Yea 35      Nay 0

### Appropriations Committee

Joint Favorable Report

Yea 33      Nay 10